

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 11
:
JOSEPH KLAYNBERG, : Case No. 22-10165 (MG)
:
:
Debtor. :
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STIPULATION AND ORDER MODIFYING MONTHLY COMPENSATION ORDER

This Stipulation and Order (the “Stipulation and Order”) is entered into between Joseph Klaynberg (the “Debtor”) and Jonathan Flaxer (the “Trustee”), by and through their respective undersigned counsel. The Debtor and the Trustee are referred to herein collectively as the “Parties”.

RECITALS

A. On February 11, 2022 (the “Petition Date”), the Debtor commenced a case (the “Case”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”).

B. On March 11, 2022, an Order was entered by the Court in the Case permitting payment of professional fees to the Debtor’s professionals on a monthly basis (the “Monthly Compensation Order”).

C. The Monthly Compensation Order provides, among other things, that “[a]t the expiration of the thirty five (35) day [objection] period, *the Debtor* shall promptly pay eighty percent (80%) of the fees and one hundred percent (100%) of the expenses identified in each fee statement to which no objection has been served....” (emphasis added).

D. On September 23, 2022, an Order was entered by the Court in the Case granting the appointment of the Trustee as chapter 11 Trustee in the Case.

E. Because the Debtor is no longer a debtor-in-possession and is no longer in control of the bank accounts of the estate, the Monthly Compensation Order needs to be modified to permit the Trustee to make payments thereunder.

STIPULATION

NOW, THEREFORE, the Parties stipulate and agree, subject to the Court's approval, as follows:

1. All references in the Monthly Compensation Order to the Debtor shall be and hereby are modified to refer to the Trustee from and after his appointment; except that the term "Debtor's counsel" therein shall continue to refer to Cullen and Dykman LLP.

2. Any notices or fee statements required to be served under the Monthly Compensation Order shall also be served on the Trustee and his counsel.

3. Within three (3) business days of (i) this Stipulation and the (ii) Stipulation and Order (A) Authorizing Trustee's Use of Cash Collateral and (B) Providing Adequate Protection (Dkt. No. _____) being so-ordered and entered by the Court, the Trustee shall make payment of all sums due to all professionals under the Monthly Compensation Order for the months of July and August 2022, none of which have been timely objected to and may therefore be paid in accordance with the Monthly Compensation Order.

4. To the extent not objected to pursuant to the provisions of the Monthly Compensation Order, any fees and expenses incurred by all professionals retained by the Debtor in this Case (the "Debtor's Professionals") for the period of September 1, 2022 through September 19, 2022 may be paid by the Trustee in accordance with the Monthly Compensation Order.

5. No fees incurred by the Debtor's Professionals for the period beginning September 20, 2022 may be paid on a monthly basis; provided, however, that the Debtor's Professionals may file motions seeking the allowance and payment of any such fees as an administrative expense claim in the Case.

6. Unless specifically modified hereby, the terms of the Monthly Compensation Order shall remain in full force and effect.

7. This Stipulation and Order is subject to the approval of the Bankruptcy Court, and the terms and provisions of the agreement contained herein shall be void and of no further force and effect if such approval is not granted.

Dated: New York, New York
November 9, 2022

CULLEN AND DYKMAN LLP

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Attorneys for the Chapter 11 Trustee

No Objection:

s/ Tara Tiantian
Office of the United States Trustee

IT IS SO ORDERED:

Dated: November 28, 2022
New York, New York

/s/ Martin Glenn
MARTIN GLENN
Chief United States Bankruptcy Judge